



**July 22, 2003**

### **Noteworthy**

"I thank President Bush for reaching out to senators on both sides of the aisle as he worked to select a nominee for the court. I hope that this bipartisan cooperation will continue as the confirmation process begins. . . . I look forward to learning more about Judge Roberts, talking with him, reviewing his record and listening to the testimony." – **Senator Byrd, Press Statement, 7/19/05**

"I look forward to the confirmation hearings to take a thoughtful look at Judge Roberts. We hope that he is both well qualified and approaches legal issues with an open mind and no partisan political agenda. We hope that he is someone who will represent the views of people all across America, someone who will respect the Constitution and, ultimately, someone I will be able to support. In no way do we want to prejudge, or be forced into hasty judgment by outside groups." – **Senator Kohl, Press Statement, 7/19/05**

"It's important that reason and thoughtfulness prevail over partisan influence as we weigh this important decision." - **Senator Kohl, Press Statement, 7/20/05**

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**Bench mark**  
**Bush played it safe with his nominee for O'Connor's seat**  
**Arizona Republic**  
**Jul. 20, 2005**

Now we have a name: John G. Roberts Jr.

President Bush's nominee to replace retiring Supreme Court Justice Sandra Day O'Connor has an identity and a life story to comb for clues.

What's more, he has a record that will be scrutinized, analyzed and sized into various ideological frameworks.

How strict is his constructionism? How much does he respect precedent?

As a replacement for O'Connor, the first woman to serve on the Supreme Court, Roberts is something of a surprise, and a mild disappointment to those who were hoping Bush would use this opportunity to name another woman or a minority. But the president will likely have the chance to name another justice before his term ends. Given his record of appointing minorities to positions of power, we have little reason to believe he will neglect the court on this score.

If confirmed, Roberts, who has served on the U.S. Court of Appeals for the District of Columbia since May 2003, would join three members of the current court who were on the D.C. court.

Bush clearly was playing it safe with a nominee who is palatable to his base. In addition, Roberts' nomination to the Appeals Court won unanimous Senate approval. He is widely perceived in his field as a man of high character and extraordinary ability. "He is universally regarded as among the best Supreme Court advocates in the nation, bar none," wrote associate law Professor Jonathan H. Adler for the conservative National Review. Even legal commentators on the predictably left-of-center National Public Radio spoke highly of Roberts' reputation Tuesday evening.

But special interest money and strategies are coiled and ready to spring in what promises to be a searing confirmation battle at a time when sharp differences cleave America's cultural landscape.

In announcing his choice for the high court, Bush said Republican and Democrat Senate leaders share his goal of a "dignified" confirmation process. Tough questioning is essential.

But questions should be about finding answers, not creating sound bites for the midterm elections.

Interest groups will make themselves heard, but their comments need to be recognized as what they are: self-serving and narrow.

The job of Supreme Court justice is not about fitting into anyone's ideological framework. It is about demonstrating the intelligence, commitment and integrity to look at each case individually and apply the law and the Constitution without prejudice or an agenda.

The American people deserve nothing less in a Supreme Court justice.

Now we have a name.

It's up to the Congress to help the nation find out whether the man behind it deserves to sit on the highest court in the land.

**A court nominee in Bush mold; Senate should confirm Roberts  
by October  
Rocky Mountain News (Denver, CO)  
July 20, 2005**

President Bush has never hidden the fact that his favorite justices on the Supreme Court are Antonin Scalia and Clarence Thomas, who believe the court is far too prone to inject its own political and social views into a reading of the law. On Tuesday the president nominated someone to the high court who by most accounts appears to share that view. Bush's decision should be no surprise, and John G. Roberts ought to be confirmed.

Indeed, we have little doubt that the Senate will elevate Roberts from the D.C. Circuit Court of Appeals, where he currently sits, to the seat left open by Sandra Day O'Connor's retirement. The question is whether the process will be ugly and protracted or civil and orderly, and whether Roberts will be available to serve with the court when its fall term begins in early October.

In other words, will the interest groups that peddle an endless repertoire of horror stories regarding the alleged designs of "conservative" judges behave themselves? Or will they launch a scorched-earth ad and lobbying campaign to defeat Roberts?

Will liberal stalwarts of the Senate such as Ted Kennedy attempt to "Bork" the nominee with lurid charges that he is a secret admirer, say, of the Grand Inquisitor?

And will the Senate's "Gang of 14" - seven Republicans and seven Democrats, including Colorado's Ken Salazar - who brokered a deal in May to avert a confrontation over judicial nominees abide by their pledge that "nominees should

only be filibustered under extraordinary circumstances"? If they do, they can't seriously contemplate the filibuster of Roberts, who simply doesn't fit the description of someone who must be stopped at all costs.

Just two years ago, the Senate confirmed Roberts to the federal appeals court by unanimous consent. At that time, as Bush pointed out Tuesday, Roberts was widely described by legal experts on both the left and right as a brilliant lawyer who excelled even in the elite company of those who argue before the Supreme Court.

Nor does Roberts seem to have a long paper trail highlighting incendiary or controversial views. If the greatest deliberative body in the world can't buckle down and vote him onto the court in a couple of months, it will amount to a national scandal.

### **Supreme Court: The Road Ahead**

#### **Seattle Post-Intelligencer**

**7/20/05**

One way or another, President Bush's selection of a Supreme Court nominee will go down as historic.

The president has done his constitutional part in nominating John Roberts Jr., a federal appeals court judge, for the Supreme Court vacancy. It is now up to the U.S. Senate to do its duty by giving Roberts what the president yesterday requested: "a dignified confirmation process that is conducted with fairness and civility."

The departure of Justice Sandra Day O'Connor leaves a huge hole in a court where her wisdom often broke deadlocks. That justifies the president's decision to move with some speed to send Roberts' name to the Senate. But it also underscores the nation's need for the Senate to engage in deliberative, open consideration of the nominee's merits.

The Supreme Court plays a vital role in upholding the rule of law. In the past three decades or so, it has faced a series of questions with moral ramifications, including abortion, and issues on the powers of government, ranging from executive privilege to eminent domain. The recent history partly explains the excessively partisan atmosphere around the court's composition, but it doesn't excuse calls for making the legal system follow election results.

In selecting a nominee with a strong legal reputation, Bush has made the Senate's work somewhat easier. Senators must still examine Roberts' views, and he should respond openly to questions. There should be no single test to

determine his devotion to liberty, but there must be a showing that any new member of the court will protect rather than whittle away American freedoms.

## **The next justice?**

**Times-Picayune (New Orleans)**

**7/21/05**

When U.S. Supreme Court Justice Sandra Day O'Connor unexpectedly announced her retirement July 1, she touched off intense speculation about whom President Bush would nominate as her successor. The president ended the suspense Tuesday by announcing his choice: John G. Roberts, a judge on the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Roberts' credentials are impressive. He graduated summa cum laude from Harvard College and at the top of his class at Harvard Law School. He was a clerk for Chief Justice William Rehnquist, an associate counsel to President Reagan and deputy solicitor general under the first President Bush.

He is by all accounts politically conservative -- not surprising for someone nominated by a conservative president. He has argued before the Supreme Court more than three dozen times and has a reputation as a top-notch advocate. He is well-liked and well-respected among lawyers in Washington.

The nomination deserves fair, thorough scrutiny. In upcoming weeks, Judge Roberts will be pressed to explain how he would approach hot-button social issues. But courts rule on a host of other matters, and senators also need to try to understand how Judge Roberts would analyze disputes over the balance between state and federal authority, the limits of executive power and many other issues.

In a way, the president's prime-time announcement Tuesday was oddly anticlimactic for court watchers in southeast Louisiana. The buzz for most of the day was that the president would choose federal appellate Judge Edith Brown Clement, a New Orleanian who sits on the 5th Circuit Court of Appeals. Supreme Court nominations are a rare honor, and her status as an apparent finalist is a great credit to Judge Clement.

But it's Judge Roberts whose name now goes to the Senate. He should be forthright at his confirmation hearings. And senators should reserve judgment until they hear what he has to say.

## **Court nominee looks to be smart choice**

**Chicago Sun-Times July 21, 2005**

From the moment Sandra Day O'Connor announced her retirement from the Supreme Court, the Democrats primed themselves for battle, fully expecting President Bush to nominate a fire-eating conservative who would tip the scales to the far right. Well, that loud whoosh you heard Tuesday, following the announcement of federal appeals court Judge John Roberts Jr. as the nominee, was the air going out of the Dems' sails. Barring an unexpected disclosure, it doesn't look like there'll be a divisive fight over this first-rate choice.

With his Harvard background, stint as law clerk to Chief Justice William Rehnquist, vast experience in arguing before the Supreme Court -- he's been there 39 times -- and strong record during his tenure as a jurist, Roberts commands respect from both sides of the ideological divide. No less liberal a publication than the New Republic categorized him as an "extremely able lawyer" and "principled conservative" whose views seem "to be leavened by a judicious temperament." And partly because his record on such hot-button issues as abortion is thin, there appear to be no telltale signs of the far-right-wing extremism that inflames the Democratic opposition. Sen. Joseph Lieberman (D-Conn.) characterized Roberts as being "in the ballpark" of candidates with whom his party could deal without rancor.

None of this is to say Roberts won't be -- or shouldn't be -- closely scrutinized during his confirmation hearings. He has been an appeals court judge for only two years, perhaps leaving himself open to questions from skeptics about not having enough seasoning. He will be asked to provide a fuller picture of where he stands on substantive issues of law. We hope his questioners refrain from drilling him on how he will vote on specific issues -- or making too much of his footnoted opposition to Roe in a brief he wrote as a deputy solicitor general to reflect the first President Bush's views. But Americans have the right to a detailed understanding of what kind of man they are getting for this profoundly important job -- one with life tenure. And at age 50, Roberts can be expected to serve on the high court a long time.

Not that you can ever predict the ideological direction a judge will take, as those conservatives who were sorely let down by Justice David Souter can attest. Still, Roberts has genuine conservative credentials and it's reasonable to conclude his career will reflect that.

Bush's selection of Roberts disappointed those who hoped O'Connor would be replaced by another woman. While praising him as "first-rate," O'Connor herself expressed that disappointment. We take solace in thinking Bush, who likely will get to nominate a second justice, will take the opportunity to act on what he termed his "obligation to think about people from different backgrounds." The high court should reflect the diversity of our society. With only one woman and one black, it falls short of that grand vision.

## **Issues of heart, not brain, key on Roberts**

### **Excerpts from USA Today National Editorial Round-up, 7/21/05**

#### **Boston Herald,**

in an editorial: "(John) Roberts has a reputation as an intellectual heavyweight. That he was a graduate of Harvard and Harvard Law School ought to not only add some heft to his résumé, but also win him support among the senators of even this bluest of blue states. President Bush in introducing Roberts to the nation praised his 'intellect, his sound judgment and his personal decency.' 'He has profound respect for rule of law,' Bush added, and is someone 'who will not legislate from the bench.' That was issue No. 1 for Bush, and it's exactly the right one."

#### **Milwaukee Journal Sentinel,**

in an editorial: "Foes accuse Roberts of judicial activism, saying he has a tendency to strike down anti-discrimination statutes, to limit congressional power and to restrict access to federal courts to plaintiffs. He deserves his day, not in court but before the (Senate) Judiciary Committee, to answer such charges. To his credit, Bush picked an unquestionably bright candidate. Roberts' brain is not at issue. Bush vouched for the candidate's heart. ... Does that heart empathize with the powerful or the powerless? That issue is worth exploring."

#### **Mobile (Ala.) Register,**

in an editorial: "Rare is the nominee who earns such praise from across the political spectrum. ... Every reason exists, therefore, for the Senate to pursue a dignified and relatively rapid confirmation of Judge Roberts — without smears, without histrionics, without demagoguery. The nation deserves not just a great Supreme Court justice, which they will get in John Roberts, but also the justice of a confirmation process that is as good as America."

#### **The Telegraph,**

Macon, Ga., in an editorial: "Various groups will spend about \$50 million in an attempt to either praise or bury Roberts. The big question is, why? The general public, while having an opinion, is not astute enough to know, one way or another, exactly what an associate justice of the U.S. Supreme Court will do. By the way, neither are most editorial writers. Presidents have misread nominees, as have legislators and pundits of all ilk. ... The Senate must do its job and question the nominee, but it must avoid the kind of circus past hearings have become."

#### **The Wall Street Journal,**

in an editorial: "All in all, Bush seems to have made a shrewd choice, one that moves the court back toward the center while denying opponents easy attack lines. The list of the three Democrats who voted against Roberts in committee for the appeals court — (Sens.) Ted Kennedy, Richard Durbin and Chuck Schumer

— tells us who is really in the judicial 'mainstream.' We'll still get a noisy battle, because the MoveOn.org crowd can't help themselves, but unless they can dig up some mud we aren't now aware of, the left is about to discover that losing presidential elections has judicial consequences."